



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 14, 1998

Ms. Kelly Fletcher Schurr
Assistant City Attorney
City of Dallas
City Hall
Dallas, Texas 75201

OR98-1664

Dear Ms. Schurr:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116592.

The City of Dallas (the "city") received three requests for various categories of information concerning the interview and hiring process for the Code Enforcement District Manager 55 and the Sanitation Operations Manager 55 positions. You indicate that you have released most of the requested information. You claim, however, that the requested tests and interview questions as well as certain personnel information are excepted from required public disclosure by sections 552.117, 552.122, and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed the sample documents that you have submitted as Exhibit D.¹

You first claim that certain information on the applicant's applications, which you have highlighted, is excepted from disclosure by sections 552.117 and 552.130. It is possible that this information may be confidential under section 552.117 of the Government Code, and therefore, this specific information, depending on the specific circumstances, may not be released. Section 552.117 of the Government Code excepts from required public disclosure the home addresses, telephone numbers, social security numbers, or information revealing whether a public employee has family members of public employees who request

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

that this information be kept confidential under section 552.024. Therefore, section 552.117 requires you to withhold the home telephone number or social security number of a current or former employee or official who requested that this information be kept confidential under section 552.024. *See* Open Records Decision Nos. 622 (1994), 455 (1987). You may not, however, withhold the information of a current or former employee who made the request for confidentiality under section 552.024 after this request for information was made. Whether a particular piece of information is public must be determined at the time the request for it is made. Open Records Decision No. 530 (1989) at 5. Further, section 552.117 only protects information if the individual is a current or former employee of the city.

Section 552.130 governs the release and use of information obtained from motor vehicle records. Section 552.130 provides in relevant part as follows:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state[.]

* * * *

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

We agree that the highlighted information you have marked under section 552.130 must be withheld.

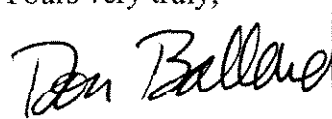
You finally claim that the written exercise and interview questions may be withheld under section 552.122 of the Government Code. Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated, but does not encompass evaluations of an employee's overall job performance or suitability. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 (1994) at 6. Traditionally, this office has applied section 552.122 where release of "test items" might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976).

After reviewing the submitted documents and your arguments, we believe that the written exercise and interview questions 5, 6 and 7 are protected "test items." They "measure the skill, knowledge, intelligence, capacities, or aptitudes of an individual" and are a "standard means by which an individual's or group's knowledge or ability in a particular area is evaluated." Open Records Decision No. 626 (1994) at 6. The remaining questions are not

“test items” as contemplated by section 552.122(b), and must be released; the material “does not involve an evaluation of an applicant’s knowledge in a particular area.” *Id.* at 8. We have marked the information that may be withheld under section 552.122.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 116592

Enclosures: Submitted documents

cc: Mr. Ernesto Patlan
1205 Shackleford Circle
Cedar Hill, Texas 75104
(w/o enclosures)

Ms. Lela Thompson
7471 Hillstar Circle
Dallas, Texas 75217
(w/o enclosures)

Ms. Neely Blackmon
815 Allen Street
Dallas, Texas 75204
(w/o enclosures)